

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BARRY JOE STULL

CV. 06-1596-PK

FINDINGS AND
RECOMMENDATION

Plaintiff,

v.

BERNIE GIUSTO AND THE
MULTNOMAH COUNTY SHERIFF'S
OFFICE,

Defendants.

PAPAK, Magistrate Judge:

This action was filed by *pro se* plaintiff Barry Joe Stull against defendants Bernie Giusto and the Multnomah County Sheriff's Office on August 9, 2006. On August 1, 2007, this court recommended that defendants' motion for summary judgment (#9) be granted in its entirety as to the named defendants, but also recommended both that Stull's response to the motion be

construed to include a request for leave to amend the complaint to name appropriate additional defendants and that the construed request be granted, provided that Stull would file the contemplated amended pleading within thirty days of the date of the district court's order following review of this court's recommendations. On September 21, 2007, Judge King adopted this court's recommendations without modification.

Subsequently, on October 22, 2007, this court granted Stull's motion for extension of time within which to amend his pleading. Pursuant to this court's order, Stull was given until November 19, 2007, to file the contemplated amended complaint.

As of the date hereof, Stull has not filed an amended complaint, nor has he requested any additional extension of time within which to do so. Accordingly, for all of the reasons set forth in this court's Findings and Recommendation dated August 1, 2007, this court recommends that Stull's complaint be dismissed for failure to state a claim upon which relief may be granted. A judgment should be prepared dismissing Stull's claims with prejudice.

SCHEDULING ORDER

The above Findings and Recommendation will be referred to a United States District Judge for review. Objections, if any, are due December 27, 2007. If no objections are filed, review of the Findings and Recommendation will go under advisement on that date. If objections are filed, a response to the objections is due fourteen days after the date the objections

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are filed and the review of the Findings and Recommendation will go under advisement on that date.

Dated this 12th day of December, 2007.

/s/ Paul Papak
Honorable Paul Papak
United States Magistrate Judge